

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION

KENNETH CAIN,
Institutional ID No. 01461710,
SID No. 06352412,
Previous TDCJ ID No. 01074522

Plaintiff,

v.

No. 5:20-CV-00297-H

BARBRA SUCSY,

Defendant.

**ORDER ACCEPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff filed this Section 1983 action alleging that Defendant Barbra Sucsy denied him access to the courts in violation of his First, Fourth, Fifth, Sixth, and Fourteenth Amendment rights by refusing to produce criminal court documents necessary for him to file a criminal appeal. Dkt. No. 1. United States Magistrate Judge D. Gordon Bryant, Jr., conducted preliminary screening and recommended that the Court dismiss Plaintiff's complaint with prejudice for failure to state a claim under 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(b). Dkt. No. 30. Plaintiff filed no objections and the time to do so has passed.

The Court has examined the record and reviewed the findings, conclusions, and recommendation for plain error. Finding none, the Court accepts and adopts the findings, conclusions, and recommendation of the United States Magistrate Judge. Plaintiff's complaint and the claims against Barbra Sucsy are therefore dismissed with prejudice for failure to state a claim.

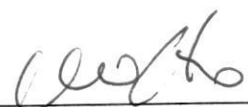
This dismissal will count as a qualifying dismissal under 28 U.S.C. § 1915(e)(2)(B) and 1915A(b)(1), and *Adepegba v. Hammons*, 103 F.3d 383 (5th Cir. 1996).

Dismissal of this action does not release Plaintiff from the obligation to pay any filing fee previously imposed. *See Williams v. Roberts*, 116 F.3d 1126, 1128 (5th Cir. 1997).

Plaintiff is advised that if he appeals this order, he will be required to pay the appeal fee of \$505.00 pursuant to the PLRA,¹ and he must submit an application to proceed *in forma pauperis* and a 6-month certificate of inmate trust account at the same time he files his notice of appeal.

All relief not expressly granted and any pending motions are denied.

So ordered on January 28, 2022.



JAMES WESLEY HENDRIX
UNITED STATES DISTRICT JUDGE

¹ Prison Litigation Reform Act of 1995.